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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,852	02/08/2002	Gordon Haas	HAAS-1	9666
7590 04/26/2005 DARBY & DARBY P. C. 805 THIRD AVENUE NEW YORK, NY 10022			EXAMINER MILLER, BENA B	
			ART UNIT 3714	PAPER NUMBER

DATE MAILED: 04/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/067,852

Applicant(s)

HASS GORDON

Examiner

Bena Miller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-6 and 8-11 are finally rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The subject matter, "a plurality of **discrete** geometrically shaped thin panels" as now amended, is not supported by the original specification and therefore, now constitutes New Matter.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6 and 8-11 are finally rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the claim recites "a plurality of **discrete** geometrically shaped thin panels"; however, it is not clear whether the panels are discrete.

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Regarding claim 8, the scope of the claim is vague and indefinite because the claim is depending from a claim that is canceled. The examiner will presume that claim 8 is a dependent of claim 1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-6 and 8 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Littlepage.

Littlepage teaches in the figures 8-10 a toy building construction set comprising a plurality of discrete geometrically shaped thin panels (210, 212, 208; it should be noted that element 212 is discrete from element 210), each having a soft texture (col. 2, par. 8 and col. 6, lines 9-27) and a surface of loops (col. 10, lines 21-30; It should be noted the patch located on the panels consist Velcro, which includes loops), a fold-away flap integrally formed with and extending from each of the panels (214, 220, 218, 217), the fold-away flap being hingedly movable between a first position having an exposed surface (fig. 8), and a second, secure position that conceals the exposed surface (fig.10), hook strips positioned on the exposed surface (Velcro patches 215, 221, 219, 217), one of the panels attaches to another of the panels by use of the hook strips when the flap is in the first position (fig.10) and the flap of the one panel secures to the same

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panel when the flap is in the second position to create a rigid attachment therebetween (The examiner takes the position that the flap of the same panel can secure to itself and will create a rigid attachment therebetween).

Regarding claim 3, Littlepage further teaches the panels are resilient (col. 6, lines 16-27). The examiner takes the broadest reasonable interpretation of the word "resilient-- 2. Capable of returning to an original shape or position, as after having been compressed. See synonyms at flexible.¹).

Regarding claim 4, Littlepage further teaches the panels are flexible (col. 6, lines 16-27).

Regarding claim 5, Littlepage further teaches the panels having an outer covering (col. 6, lines 16-27).

Regarding claim 6, Littlepage further teaches the outer covering of the panels is cloth (col. 2, par. 8 and col. 6, lines 16-27).

Regarding claim 8, the Littlepage further teaches the panel shapes are rectangles (fig. 8).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Littlepage in view of Mayne.

Littlepage teaches in the figures most of the elements of the claimed invention except for foam rubber panels. Mayne teaches a sculpture toy having panels that are formed from foam rubber material (col. 3, lines 34-49). It would have been obvious to one having ordinary skill in the art at the time the invention was made to having the use of foam rubber as taught by Mayne for the panels of Littlepage for the purpose of providing sufficient support for the device to be free standing (col. 3, lines 38 and 39).

Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Littlepage.

Regarding claims 9 and 10, Littlepage teaches in the figures most of the elements of the claimed invention except for the panels' width between about one-half inch and about one inch. It would have been considered a mere design choice to have the width of the panels between about one-half inch and about one inch for the purpose of allowing the child to carry a smaller doll within the enclosed panels.

Regarding claim 11, Littlepage fails to teach the panel covers is covered by the surface of the loops. It would have been considered a mere design choice to have the panels covered by the surface of loops for the purpose of easily securing the panels in any position on the other panel.

Response to Arguments

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Applicant's arguments filed 04/04/05 have been fully considered but they are not persuasive. In response to Applicant's remarks that Littlepage fails to teach a plurality of discrete panels, the Examiner disagrees. Applicant's attention is directed to the above rejection in reference to the plurality of discrete panels. Further, the Examiner maintains the rejection set forth in previous Office Action.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

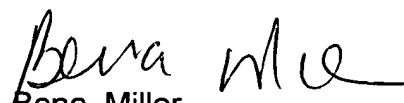
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 571.272.4427. The examiner can normally be reached on Monday-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Bena Miller
Primary Examiner
Art Unit 3714

bbm
April 24, 2005